

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

CRYSTAL GOOD, et al.,

Plaintiffs

v.

WEST VIRGINIA-AMERICAN WATER
COMPANY,
et al.,

Defendants.

Civil Action No. 2:14-CV-01374
Hon. John T. Copenhaver, Jr.

Consolidated with:
Civil Action No. 2:14-CV-13164
Civil Action No. 2:14-CV-11011
Civil Action No. 2:14-CV-13454

CLASS ACTION

**APPLICATION FOR APPROVAL TO PAY APPROVED SIMPLE CLAIM FORM
CLAIMANTS**

The parties and Court-appointed Settlement Administrator, SmithCochranHicks PLLC (“SCH”) respectfully apply to the Court to approve the distribution of Available Assets for the Simple Claim Option to approved Simple Claim Form claims in accordance with the attached Schedule pursuant to Section 6.2.2.1 of the Amended Class Action Settlement Agreement (“ASA”) (Doc. 1163-1) approved by this Court’s Order Granting Final Approval of the Good Class Settlement and Entering Judgment (Doc. 1212).

Section 6.2.2.1 of the ASA provides as follows:

[T]he Settlement Administrator may seek permission from the Court to distribute payments for the approved Simple Claim Form claims before distributing payments for the Individual Review Option claims by filing an application to distribute after providing reasonable notice to the Parties that includes the date on which the Settlement Administrator plans to file such application. The Parties shall have the right to submit responses to such application by the Settlement Administrator on the date the Settlement Administrator files the application. The Court may authorize or deny such distribution based on the evidence provided by the Settlement Administrator and taking into account the responses provided by the Parties.

Under this Section 6.2.2.1, SCH keeps the parties and the Court aware on at least a daily basis of the status of its efforts to administer the settlement in this action. The parties are aware that SCH is making this application on this date and join in the request for Court approval of the distribution outlined on the attached Schedule.

Under Exhibit 3 to the ASA, the Distribution Protocols (Doc. 1163-1, p. 93 of 231) at Section XI provide for the manner in which the Available Assets are to be distributed. First, Sec. XI(A) contemplates the inclusion of the net settlement funds from the settlements with Dennis Farrell and Gary Southern with Court approval. That approval has been granted by this Court's Memorandum Opinion and Order dated June 8, 2018 (Doc. 1211) as to the Farrell settlement and this Court's Memorandum Opinion and Order dated September 5, 2018 (Doc. 1237) as to the Southern settlement. Under Sec. XI(A), the net funds from these settlements are to be paid consistent with the process for use of the American Water Guaranteed Settlement Fund.

Under Sec. XI(C) of the Distribution Protocols, "Order of Use of Funds," the Net Eastman Fund is to be paid out first to Simple Claim Form claims, until exhausted, followed by the net Individual Defendant settlement funds to Simple Claim form claims of Residential Claimants until exhausted and then the Net American Water Guaranteed Fund to Simple Claim Form claimants until exhausted. As the Court is aware, approved Simple Claim Form claims exceeded the estimated rate by some 12.3%, which ensured exhaustion of the funds available to pay those claims and which will result in actual proposed payouts 12.3% lower than the amounts estimated at the time of execution of the ASA as shown on the attached Schedule. Accordingly, the Settlement Administrator sent notice to the American Water Defendants under Section 5.4.3

of the ASA to make the Initial Contingent Fund Contribution as the Guaranteed Fund will be fully paid out to approved Simple Claim Form claimants.


Lastly, the offsets contemplated by Sec. X(B) and XI(F) of the Distribution Protocols have been determined and credited to the funds available to pay Simple Claim Form claimants as reflected on the attached Schedule. Accordingly, we are prepared to prepare and issue allowed Simple Claim Form payments, subject only to reserving funds to compensate those who requested a second review of their denied claim.

For the foregoing reasons, the parties and SCH apply to the Court for its approval to distribute funds by check to allowed Simple Claim Form claimants as more fully described on the attached Schedule under Section 6.2.2.1 of the ASA and Section XI of the Distribution Protocols.

Respectfully submitted,

DATED: September 6, 2018

By:



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SETTLEMENT ADMINISTRATOR

and

/s/ Van Bunch

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On Behalf of the Settling Parties

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CERTIFICATE OF SERVICE

The undersigned counsel for Plaintiffs hereby certifies that on September 6, 2018, the foregoing “Application for Approval to Pay Approved Simple Claim Form Claimants” was served on all counsel of record through the CM/ECF system which will send notification of the filing to all counsel of record.

Bonnett Fairbourn Friedman & Balint PC

/s/ Van Bunch

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